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CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

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12 Attorneys for Plaintiff  
Gen-Probe Incorporated

13 UNITED STATES DISTRICT COURT

14 15 SOUTHERN DISTRICT OF CALIFORNIA

16 17 GEN-PROBE INCORPORATED,

No. 99cv2668 H (AJB)

18 Plaintiff,

STIPULATION AND [PROPOSED] ORDER

19 v.  
20 VYSIS, INC.,

ALLOWING GEN-PROBE INCORPORATED TO  
FILE UNDER SEAL CERTAIN DOCUMENTS UPON  
WHICH IT RELIES TO SUPPORT ITS MOTION  
FOR PARTIAL SUMMARY JUDGMENT

21 Defendant.

22 I. FACTS

23 1. On September 18, 2000, this Court entered a Protective Order to govern the use and  
24 disclosure of confidential information disclosed in discovery in this litigation, a true and correct  
25 copy of that Protective Order and the subsequent amendment thereto are attached hereto as Exhibit  
26 A. Pursuant to paragraph 13 of the Protective Order, no documents shall be filed under seal unless  
27 the Court issues a separate Order upon application of the affected party.

1       2. Gen-Probe Incorporated ("Gen-Probe") is now moving for partial summary  
2 judgment and among other things relies upon information Defendant Vysis, Inc. ("Vysis") has  
3 designated under the Protective Order as being confidential to support that motion.

4       3. As Exhibit 9 in support of its Motion for Partial Summary Judgement, Gen-Probe  
5 relies upon excerpts from the transcript of the deposition of Jonathan Lawrie, Ph.D. taken February  
6 15, 2001. Pursuant to the Protective Order, Vysis designated the transcript of Dr. Lawrie's  
7 deposition as Confidential.

8       4. As Exhibit 10 in support of its Motion for Partial Summary Judgment, Gen-Probe  
9      relies upon excerpts of the transcript of the deposition of James Richards, Ph.D. taken March 30,  
10     2001. Pursuant to the Protective Order, Vysis designated portions of the transcript of Dr.  
11     Richards' deposition as Confidential-Attorney's Only.

12       5. The relevant portions of Drs. Lawrie and Richard's deposition transcripts are  
13 contained in the sealed envelope attached hereto as Exhibit B and therein are labeled as Exhibits 9  
14 and 10, respectively.

## II. STIPULATION

The parties, through their respective counsel, stipulate that the portions of Drs. Lawrie and Richards' deposition transcripts upon which Gen-Probe relies to support its Motion for Partial Summary Judgment shall be filed under seal in accord with the terms of the Protective Order entered in this case.

Dated: April 30, 2001

**STEPHEN P. SWINTON  
J. CHRISTOPHER JACZKO  
COOLEY GODWARD LLP**

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R. WILLIAM BOWEN, JR.  
GEN-PROBE INCORPORATED

By  L. Christopher Jaczko

Attorneys for Plaintiff  
Gen-Probe Incorporated

No. 99cv2668 H (AJB)

1 Dated: April 30, 2001

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4  
5 By: Thomas W. Banks  
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7 Attorneys for Defendant  
Vysis, Inc.

8  
9 **IT IS SO ORDERED**

10 Gen-Probe may file the excerpts of Drs. Lawrie and Richards' deposition transcripts upon  
11 which its relies to support its Motion for Partial Summary Judgment under seal in accord with the  
12 terms of the Protective Order entered in this case.

13 Dated: 5/3/01

14 Marvin L. Hull  
15 JUDGE OF THE DISTRICT COURT  
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